

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: March 17, 2005

ANALYST: Christopher Morse

I. COMMITTEE: American Society of Anesthesiologists
Political Action Committee
(C00255752)
Richard Barwacz, Treasurer
520 N. Northwest Highway
Park Ridge, IL 60068

II. RELEVANT STATUTE: 2 U.S.C. §434(b)(6)(B)(iii)
2 U.S.C. §434(g)(2)
11 C.F.R. §104.4(b)(2)

III. BACKGROUND:

Failure to Provide Supporting Schedules (Failure to File 48- Hour Notices)

American Society of Anesthesiologists Political Action Committee ("the Committee") failed to file three (3) 48-Hour Notices for independent expenditures totaling \$245,600.00 made between January 1st and the 20th day before the 2004 Congressional Primary Elections held in the States of Georgia, Nevada and Washington (Attachment 2).

Prior Notices listing the official filing dates for monthly filers were sent to the Committee on February 2, 2004 and August 27, 2004. The notices included a section titled *48- and 24-Hour Reports on Independent Expenditures*. This section read: "Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file 48-hour or 24-hour reports. The 48-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$10,000 or more between January 1st and the 20th day before the election. The 24-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. These reports are *not* required when a Party Committee or PAC makes a contribution directly to a candidate" (Attachment 3 and 4).

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On May 1, 2004, the Committee filed a 2004 May Monthly Report which included a Schedule E disclosing an independent expenditure totaling \$91,500.00 made on behalf of a federal candidate (Tom Price – Georgia) that required a 48-Hour Notice be filed with the Commission (Image 24961325295).

On August 16, 2004, the Committee filed a 2004 August Monthly Report which included a Schedule E disclosing an independent expenditure totaling \$95,000.00 made on behalf of a federal candidate (George Nethercutt – Washington) that required a 48-Hour Notice be filed with the Commission (Image 24962098181).

On September 13, 2004, the Committee filed a 2004 September Monthly Report which included a Schedule E disclosing three (3) independent expenditures totaling \$90,832.51 made on behalf of three (3) federal candidates (Image 24971445442 and 24971445443). Of those independent expenditures disclosed on the Schedule E, only two which had at least an aggregate of \$10,000 or more, required a 24 or 48-Hour Notice to be filed with the Commission. The Committee correctly filed a 24 Notice of Independent Expenditure on August 6, 2004 for a \$24,183.87 expenditure made on August 5, 2005. The expenditure was for the Georgia Runoff Election held on August 10, 2004 in support of Tom Price, a candidate for Georgia's Sixth (6th) Congressional District. The Committee, however, failed to file a 48-Hour Notice for an August 9, 2004 expenditure of \$59,100.00 in support of Harry Reid, a Senate candidate for Nevada.

On October 6, 2004, a Request for Additional Information ("RFAI") was sent to the Committee referencing the 2004 September Monthly Report (Image 24038532258). The RFAI noted that the Committee may have failed to file one or more of the required 48-Hour Notices for independent expenditures. In addition, the RFAI stated that, although the Commission may take further legal action, the Committee's prompt response concerning the matter would be taken into consideration.

On November 1, 2004, the Committee filed a miscellaneous electronic submission which acknowledged that the Committee failed to file the appropriate notice for... "the disbursement made on 8/9/04 for radio ads disseminated 9/27/04." Please note, that the Committee states that the disbursement was made on 8/9/04 while the September Monthly Report indicates that the disbursement of \$59,100.00 was made on 8/5/04. The Committee also indicated that it had failed to file 48-Hour Notices for additional independent expenditures which had been disbursed on 4/1/04, 6/24/04 and 7/22/04. Of those independent expenditures, two (2) exceeded the \$10,000 reporting threshold and required a 48-Hour Notice be filed with the Commission. Further, the Committee stated that once it "determined that these errors were occurring, immediate action was taken to rectify the internal problems associated with the reporting of independent expenditures" (Image 24038610448).

On November 8, 2004, a Reports Analysis Division ("RAD") analyst called the Committee regarding the RFAI for the 2004 September Monthly Report. The RAD analyst notified Richard Barwacz, Treasurer of the Committee, that the failure to file a 48-Hour Notice was a matter which could be referred to the Office of General Counsel (Attachment 5).

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On December 15, 2004, A Request for Additional Information ("RFAI") was sent to the Committee to formally highlight that the Committee had failed to file the required 48-Hour notices for independent expenditures referenced on the 2004 May Monthly Report in the amount of \$91,500.00 and on the 2004 August Monthly Report in the amount of \$95,000.00 (Image 24038664059 and 24038664062). In addition, the RFAI stated that, although the Commission may take further legal action, the Committee's prompt response concerning the matter would be taken into consideration.

On January 11, 2005, the Committee filed a miscellaneous electronic submission which again acknowledged the Committee's deficiency with regard to the independent expenditures made on April 1, 2004 and July 22, 2004. The Committee further stated that the November 1, 2004 letter indicated that, "once the committee determined that errors regarding [our] 48/24 hour notices had occurred, we took immediate action to rectify the internal problems associated with the reporting of our independent expenditures" (Image 25038684716).

To date, no further communications have been received from the Committee regarding this matter.

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AMERICAN SOCIETY OF ANESTHESIOLOGISTS POLITICAL ACTION COMMITTEE
BARWACZ, RICHARD
FILING FREQUENCY: MONTHLY

520 N. NORTHWEST HIGHWAY

PARK RIDGE

NON-PARTY QUALIFIED
IL 60068

ID #C00255752

FORM TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
3	M12	N	P	12/10/2003	45	23992435452	11/01/2003 11/30/2003	722164	42512	35487	729189	0
3	YE	N	P	1/12/2004	22	24990050065	12/01/2003 12/31/2003	729189	11082	24716	715555	0
3	M2	N	P	2/17/2004	26	24990513422	1/01/2004 1/31/2004	715555	20442	41605	694393	0
3	M3	N	P	3/17/2004	32	24990769418	2/01/2004 2/29/2004	694393	18840	126705	586528	0
3	M4	N	P	4/19/2004	133	24991092684	3/01/2004 3/31/2004	586528	155266	118928	622866	0
3	M5	N	P	5/17/2004	90	24961325206	4/01/2004 4/30/2004	622866	112157	145493	589530	0
3	M6	N	P	6/15/2004	55	24971249318	5/01/2004 5/31/2004	589530	51821	79420	561930	0
3	M7	N	P	7/16/2004	36	24961877142	6/01/2004 6/30/2004	561930	20778	42543	540164	0
3	M7	A	P	8/26/2004	36	24962292124	6/01/2004 6/30/2004	561930	20778	42543	540164	0
3	M8	N	P	8/16/2004	28	24962098154	7/01/2004 7/31/2004	540164	13099	152752	400511	0
3	M9	N	P	9/13/2004	66	24971445378	8/01/2004 8/31/2004	400511	67986	148478	320019	0
3	M10	N	P	10/08/2004	68	24962391737	9/01/2004 9/30/2004	320019	75672	42586	353105	0
3	12G	N	P	10/15/2004	19	24981347300	10/01/2004 10/13/2004	353105	5820	145661	213264	0
3	30G	N	P	12/02/2004	127	24991377178	10/14/2004 11/22/2004	213264	185793	7872	391185	0
3	YE	N	P	1/18/2005	73	25980175416	11/23/2004 12/31/2004	391185	90288	8268	473205	0
TOTAL									1607305	1542577		

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AMERICAN SOCIETY OF ANESTHESIOLOGISTS POLITICAL ACTION COMMITTEE
 BARWACZ, RICHARD
 FILING FREQUENCY: MONTHLY

520 N. NORTHWEST HIGHWAY

PARK RIDGE

NON-PARTY QUALIFIED
 IL 60068

ID #C00255752

FORM TYPE RPT TYPE AI PGI REC DATE PGS BEG IMAGE COVERAGE DATES BEG CASH RECEIPTS DISBURSE END CASH DEBTS BY

1 A 2/13/2003 4 23990381027
 1 A 9/10/2004 4 24971439277
 MS 2 8/06/2004 1 24962071918
 MS T 9/30/2004 4 24038524398
 MS 2 10/05/2004 1 24962383870
 MS 2 10/08/2004 1 24962390686
 MS T 11/01/2004 3 24038610448
 MS T 11/10/2004 4 24038613544
 MS T 1/11/2005 5 25038684716

RQ M5 2 12/15/2004 3 24038664059 4/01/2004 4/30/2004
 RQ M7 2 8/04/2004 4 24038491188 6/01/2004 6/30/2004
 RQ M8 2 12/15/2004 4 24038664062 7/01/2004 7/31/2004
 RQ M9 2 10/06/2004 4 24038532258 8/01/2004 8/31/2004

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 3 M2 N P 2/10/2003 21 23990365918 1/01/2003 1/31/2003 408479 20456 4076 424859 0
 3 M3 N P 3/04/2003 28 23990482638 2/01/2003 2/28/2003 424859 26400 20325 430935 0
 3 M4 N P 4/09/2003 161 23990669459 3/01/2003 3/31/2003 430935 193050 99178 524806 0
 3 M5 N P 5/07/2003 46 23990874925 4/01/2003 4/30/2003 524806 48297 56824 516279 0
 3 M6 N P 6/10/2003 52 23991052654 5/01/2003 5/31/2003 516279 49973 76718 489534 0
 3 M7 N P 7/10/2003 32 23991269899 6/01/2003 6/30/2003 489534 27694 40062 477165 0
 3 M8 N P 8/07/2003 52 23991686395 7/01/2003 7/31/2003 477165 57554 35223 499497 0
 3 M9 N P 9/11/2003 55 23991908136 8/01/2003 8/31/2003 499497 68407 18419 549484 0
 3 M10 N P 10/03/2003 54 23991999899 9/01/2003 9/30/2003 549484 53311 41570 561225 0
 3 M11 N P 11/10/2003 142 23992255239 10/01/2003 10/31/2003 561225 190607 29668 722164 0

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American Society of Anesthesiologists Political Action Committee (C00255752)

2004 Primary, Run-off and General Independent Expenditure Overview

Name of Payee	Amount of Expenditure (Schedule E)	2004 Report and Date of Expenditure (Schedule E)	Candidate Supported	48 Hour Notice Required	48 Hour Notice Filed	State and Date of Election (in which disseminated)
Todd & Castellanos Creative Group	\$91,500.00	May Monthly - April 1, 2004	Tom Price	Yes	No	Georgia - 2004 Primary (7/20/04)
Todd & Castellanos Creative Group	\$8,687.00	Amended July Monthly - June 24, 2004	Tom Price	No, below \$10K	N/A	Georgia - 2004 Primary (7/20/04)
MH Media LLC	\$95,000.00	August Monthly - July 22, 2004	George Nethercutt	Yes	No	Washington - 2004 Primary (9/14/04)
Todd & Castellanos Creative Group	\$24,183.87	September Monthly - August 5, 2004	Tom Price	No - 24 hour Notice Required.	24 Hour Notice filed on 8/6/04	Georgia - 2004 Runoff (8/10/04)
MH Media LLC	\$7,548.64	September Monthly - August 13, 2004	George Nethercutt	No, below \$10K	N/A	Washington - 2004 Primary (9/14/04)
The Public Response Group	\$59,100.00	September Monthly - August 5, 2004	Harry Reid	Yes	No	Nevada - 2004 Primary (9/7/04)
Todd & Castellanos Creative Group	\$3,000.00	Pre-General - October 7, 2004	Jim DeMint	No, below \$10K	48 Hour Notice Filed on 10/8/04	South Carolina - 2004 General
The Public Response Group	\$11,311.16	Pre-General - October 7, 2004	Harry Reid	Yes	48 Hour Notice Filed on 10/5/04	Nevada - 2004 General
Todd & Castellanos Creative Group	\$104,720.00	Pre-General - October 7, 2004	Jim DeMint	Yes	48 Notice Filed on 10/5/04	South Carolina - 2004 General

MONTHLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

PARTIES AND PACS

February 2, 2004

WHO MUST FILE

As a monthly filer, you must file Monthly Reports in 2004.¹

NOTE: Recent changes to the law require certain party committees to file monthly reports (quarterly reporting is no longer an option for these committees). For more information, see the January 2004 issue of the *Record*, which can be found on the FEC web site at <http://www.fec.gov/pages/record.htm>. An additional legislative change allows committees to file reports using overnight mail on the same terms as registered/certified mail. (See footnote 3.)

REPORTING DATES

REPORT	REPORTING PERIOD ²	REG./CERT. & OVERNIGHT MAILING DATE ³	FILING DATE
February	01/01/04 - 01/31/04	02/20/04	02/20/04
March	02/01/04 - 02/29/04	03/20/04	03/20/04 ⁴
April	03/01/04 - 03/31/04	04/20/04	04/20/04
May	04/01/04 - 04/30/04	05/20/04	05/20/04
June	05/01/04 - 05/31/04	06/20/04	06/20/04 ⁴
July	06/01/04 - 06/30/04	07/20/04	07/20/04
August	07/01/04 - 07/31/04	08/20/04	08/20/04
September	08/01/04 - 08/31/04	09/20/04	09/20/04
October	09/01/04 - 09/30/04	10/20/04	10/20/04
Pre-General	10/01/04 - 10/13/04	10/18/04	10/21/04
Post-General	10/14/04 - 11/22/04	12/02/04	12/02/04
Year-End	11/23/04 - 12/31/04	01/31/05	01/31/05

¹Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

²These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered.

³Monthly reports sent by registered or certified mail must be postmarked by the mailing date. Committees should keep the mailing receipt with its postmark as proof of filing. If using overnight mail, the delivery service must receive the report by the mailing date. "Overnight mail" means an overnight service with an on-line tracking system. Monthly reports filed by any other means must be received by the Commission (or Secretary of the Senate for committees supporting only Senate candidates) by the filing date.

⁴Notice that the filing date falls on a weekend. Filing deadlines are not extended when they fall on nonworking days.

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48- AND 24-HOUR REPORTS ON INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file 48-hour or 24-hour reports. The 48-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$10,000 or more between January 1st and the 20th day before the election. The 24-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. See 11 CFR 104.4.

These reports are *not* required when a Party Committee or PAC makes a contribution directly to a candidate. Visit the FEC web site at http://www.fec.gov/pages/charts_ie_dates.htm for a state-by-state chart of 48- and 24-hour reporting periods.

ELECTRONIC FILING

Political committees that receive contributions or make expenditures in excess of \$50,000 in a calendar year, or that expect to do so, must submit their reports electronically. For additional information, review the enclosed handout entitled "Electronic Filing," call the FEC's Electronic Filing office at (800) 424-9530 or (202) 694-1642, and visit our web site at <http://www.fec.gov/electfil/electron.html>.

COMPLIANCE

- Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time.
- Under the Administrative Fine Program, political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$16,000 (or more for repeat late- and non-filers). For additional information, see the enclosed handout entitled, "Administrative Fine Program," and visit our web site at <http://www.fec.gov/adminfines1.html>.
- In addition, political committees that file illegible reports or use non-FEC forms (except for FEC-approved, computer-generated forms) will be required to refile their reports.
- Electronic filers who instead file on paper or submit an electronic report (either by direct transmission or on 3.5" diskette) that does not pass the validation test will be considered non-filers and may be subject to enforcement actions (including administrative fines).

CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to quarterly) who wish to do so must notify the Commission in writing when they file their next report due under their current reporting schedule. Committees may change their filing frequency no more than once per calendar year.

MONTHLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

PARTIES AND PACS

August 27, 2004

REPORTING DATES FOR REMAINDER OF 2004

REPORT	REPORTING PERIOD ¹	REG./CERT. & OVERNIGHT MAILING DATE ²	FILING DATE
September	08/01/04 - 08/31/04	09/20/04	09/20/04
October	09/01/04 - 09/30/04	10/20/04	10/20/04
Pre-General	10/01/04 - 10/13/04	10/18/04	10/21/04
Post-General	10/14/04 - 11/22/04	12/02/04	12/02/04
Year-End	11/23/04 - 12/31/04	01/31/05	01/31/05

WHO MUST FILE

Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) filing on a monthly basis must file Monthly Reports in 2004. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

In an election year, the 12-Day Pre-General and 30-Day Post-General Election Reports are filed in lieu of the November and December Monthly Reports.

NOTE: A recent legislative change allows committees to file reports using overnight mail on the same terms as registered/certified mail. (See footnote 2).

¹These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered.

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ELECTRONIC FILING

Political committees that receive contributions or make expenditures in excess of \$50,000 in a calendar year, or that expect to do so, must submit their reports electronically. For additional information, review the enclosed handout entitled "Electronic Filing," call the FEC's Electronic Filing office at (800) 424-9530 or (202) 694-1642, and visit our web site at <http://www.fec.gov/electfil/electron.html>.

48- AND 24-HOUR REPORTS ON INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in connection with an election may also have to file 48-hour or 24-hour reports. The 48-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$10,000 or more between January 1st and the 20th day before the election. The 24-hour reporting requirement will be triggered each time the committee makes independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the day of the election. See 11 CFR 104.4.

These reports are *not* required when a Party Committee or PAC makes a contribution directly to a candidate. Visit the FEC web site at http://www.fec.gov/pages/charts_ie_dates.htm for a state-by-state chart of 48- and 24-hour reporting periods.

COMPLIANCE

- Treasurers of political committees are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time.
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- In addition, political committees that file illegible reports or use non-FEC forms (except for FEC-approved, computer-generated forms) will be required to refile their reports.
- Electronic filers who instead file on paper or submit an electronic report (either by direct transmission or on 3.5" diskette) that does not pass the validation test will be considered non-filers and may be subject to enforcement actions (including administrative fines).

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